



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MUETING RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

COPY MAILED

OCT 28 2008

OFFICE OF PETITIONS

Applicant: Wang

Appl. No.: 10/591,199

Filing Date: June 13, 2007

Title: ESTROGEN RECEPTORS AND METHODS OF USE

Attorney Docket No.: 180.0020101

Pub. No.: 2007/0258895 A1

Pub. Date: November 08, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on December 3, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error on the front page of the publication, wherein the provisional data is incorrect. In that, provisional application 60/552,067 filed on March 10, 2004 is erroneously printed as 60/522,067 filed on August 10, 2004.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The error in the benefit claim on the front page of the publication is an Office mistake, but it is not a material mistake as required by 37 CFR 1.221(b). The error in the benefit claim on the front page of the publication is not a material mistake as the benefit claim is in the first line of the specification, as required by 37 CFR 1.78. The error in the benefit claim on the front page of the publication is not a material mistake because it does not affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. The first line of the specification

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

contains the proper benefit claim, thus one can read and understand the application and properly use the patent application publication as a prior art reference.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy